

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)  
capacity as ATTORNEY GENERAL OF )  
THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT, C. MILES TOLBERT, )  
in his capacity as the TRUSTEE FOR )  
NATURAL RESOURCES FOR THE )  
STATE OF OKLAHOMA, )  
Plaintiff )

vs. )

05-CV-0329-TCK-SAJ

TYSON FOOD, INC., et al. )  
Defendants )

TYSON FOODS, INC., TYSON )  
POULTRY, INC., TYSON CHICKEN, )  
GEORGE'S, INC., GEORGE'S FARMS, )  
INC., PETERSON FARMS, INC., )  
SIMMONS FOODS, INC., AND )  
WILLOW BROOK FOODS, INC. )

THIRD PARTY PLAINTIFFS, )

vs. )

CITY OF TAHLEQUAH, et. al . )  
Third Party Defendants. )

**MOTION TO ADOPT AND INCORPORATE THE ARGUMENTS AND AUTHORITY  
SET FORTH IN THE STATE OF OKLAHOMA'S MOTION TO SEVER AND STAY  
AND/OR STRIKE OR DISMISS THE CLAIMS ASSERTED IN THE THIRD-PARTY  
COMPLAINTS AND IN THE BRIEF OF THE BERRY GROUP OF THIRD-PARTY  
DEFENDANTS FOR DISMISSAL, AND ALTERNATIVELY FOR SEVERANCE AND  
STAY OF THE THIRD-PARTY COMPLAINT OF DEFENDANTS/THIRD-PARTY  
PLAINTIFFS, TYSON FOODS, INC. TYSON CHICKEN, INC., COBB-VANTRESS,  
INC. PETERSON FARMS, INC. SIMMONS FOODS, INC., GEORGE'S INC., AND  
WILLOW BROOK FOODS, INC.**

COMES NOW the Third-Party Defendant, City of Tahlequah, and hereby adopt and incorporate the arguments and authority set forth in the Motion to Sever and Stay and/or Strike or Dismiss the Claims Asserted in the Third-Party Complaints (Doc. 247) filed by the State of

Oklahoma on April 3, 2006, and in the Brief in Support of Motion of the Berry Group of Third-Party Defendants for Dismissal, and Alternatively for Severance and Stay, of the Third-Party Complaint of Defendants/ Third-Party Plaintiffs, Tyson Foods, Inc., Tyson Chicken, Inc. Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's Inc., and Willow Brook Foods, Inc., (Doc 589) filed by the Berry Group on May 14, 2006. It is well-settled that parties to a lawsuit may adopt and incorporate argument and authority set forth in the Briefs/Motions of other parties in order to promote judicial economy and prevent the filing of repetitious documents. See, e.g., RSM Production Corp. v. Petroleos de Venezuela Societa Anonima (PDVSA), 338 F.Supp.2d 1208, 1210 (D.Colo., 2004); U.S. v. Lavalle, 269 F.Supp.2d 1297, 1200 fn2 (D.Colo, 2003); U.S. v. Sanchez, 75 F.3d 603,605 (10<sup>th</sup> Cir. 1996).

WHEREFORE, premises considered, Third-Party Defendant, City of Tahlequah, hereby adopt and incorporate those arguments and authority set forth in the aforementioned Briefs and pray this Court dismiss the Third-Party Complaint of Tyson, or, in the alternative, sever the Third-Party Complaint and stay the proceedings until resolution of the Plaintiff's action against the Defendants.

Respectfully submitted,  
CITY OF TAHLEQUAH, Third Party Defendant

By: /s/ PARK MEDEARIS, City Attorney  
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**City Attorney, City of Tahlequah**

#### **CERTIFICATE OF SERVICE**

I certify that on the 24<sup>th</sup> day of May, 2006, I electronically transmitted the attached document to the Clerk of the Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

Elizabeth C. Ward  
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and

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/s/ PARK MEDEARIS  
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